

REMARKS

Claims 1 through 27 are pending in the application. In the Office Action of Paper No. 9, claims 1 through 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by WO 94/10558, (hereinafter the '558 reference). For the reasons set forth below, Applicant respectfully requests reconsideration and withdrawal of these rejections. Additionally, Applicant has herein amended claims 1 and 21 to correct typographical errors previously made in the lettering of the paragraphs of these claims.

Claims 1-27 are Not Anticipated by the '558 Reference

Legal precedent clearly establishes that “an anticipation rejection requires a showing that each limitation of the claim must be found in a single reference, practice, or device.” *In re Donohue*, 226 USPQ 619, 621 (Fed. Cir. 1985). Furthermore, “[f]or a prior art reference to anticipate, every element of the claimed invention must be *identically* shown in a single reference.” *In re Bond*, 15 USPQ 2d 1566, 1567-68 (Fed. Cir. 1990) (*emphasis added*).

Independent claim 1 is drawn to a test device that requires, among other things, electrical contacts mounted in relation to the housing for engaging with electrode tracks on a sensor at an engagement location and comprises a transfer member wherein rotation of the transport member with a sensor in the recessed region will transport the sensor to the engagement location or to a position where the sensor can be moved to the engagement location. In contrast, the device of the '558 reference discloses a device having an ejector which moves in a manner to separate a sensor from electrical contacts so as to eject it from the apparatus. Thus, the '558 reference fails to disclose any test device that comprises a rotatable transport member for moving sensors into electrical engagement with electrical contacts.

Claim 1 also requires that the transport member have an axis of rotation which spans the opening of the housing. Although the device disclosed in the '558 reference is described as alternatively having a rotatable configuration in the form of a daisywheel, the '558 reference fails

to disclose such an ejector being rotatable about an axis which spans any opening of the housing.

Because the '558 reference fails to disclose or suggest the above-mentioned limitations of claim 1, the '558 reference does not anticipate or make obvious claim 1. Thus, because claim 1 is not anticipated by the '558 reference, it follows then that claims 1-16, 19, 20, 22-25, and 27, being dependent upon claim 1, are therefore also not anticipated or obvious in view of the '558 reference.

Claim 17 requires a housing having an opening, and a transport member having an axis of rotation which spans the opening and which, when rotated, brings a test strip to an engagement location at which it can be engaged with electrical contacts of a meter. As mentioned above, the '558 reference discloses a device having an ejector which moves in a manner to separate a sensor from electrical contacts so as to eject it from the apparatus but fails to disclose or suggest any transport member, which is rotatable about an axis that spans an opening and fails to disclose any transport member that moves any test strip into engagement with electrical contacts. Thus, because the '558 reference fails to disclose or suggest these limitations of claim 17, the '558 reference fails to anticipate or make obvious claim 17. Thus, it follows then that claim 18, being dependent upon claim 17, is also not anticipated or obvious in view of the '558 reference.

Independent claim 21 requires a transport member that, when rotated, will transport a sensor to the engagement location or to a position where the sensor can be moved to the engagement location. Claim 21 also requires spring means within the housing which urges the stack of sensors towards the transport member in a direction substantially perpendicular to a plane containing the axis of rotation of the transport member. Again, the '558 reference discloses a device having an ejector which moves in a manner to separate a sensor from electrical contacts so as to eject it from the apparatus but fails to disclose or suggest any transport member, when rotated, will transport a sensor to the engagement location or to a

position where the sensor can be moved to the engagement location. Moreover, the '558 reference fails to disclose or suggest any means for urging a stack of sensors towards a rotatable transport member in a direction substantially perpendicular to a plane containing the axis of rotation of the transport member. Thus, because the '558 reference fails to disclose or suggest these limitations of claim 21, the '558 reference fails to anticipate or make obvious claim 21.

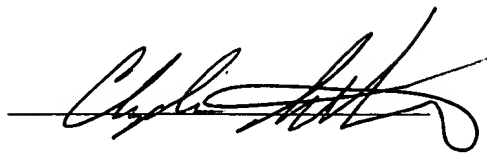
Independent claim 26 requires, among other things, transport member that when rotated brings a test strip to an engagement location at which it can be engaged with electrical contacts of a meter. Moreover, claim 26 requires load means provided between the transport member and a housing thereof, for applying a compressive load to a sensor during at least a part of the time when the said sensor is located in the recessed region of the transport member. The '558 reference fails to disclose or suggest these limitations as is required for a proper anticipation rejection. Thus, because the '558 reference fails to disclose or suggest these limitations of claim 26, the '558 reference fails to anticipate or make obvious claim 26.

For these reasons alone, claim 1-27 are not anticipated by the '558 reference. However, in addition to the limitations of the independent claims discussed above, each of the limitations contained in the dependent claims is not addressed in the Office Action and each further prohibits its respective claim from being anticipated or obvious in view of the prior art.

Conclusion

In view of the foregoing, Applicant submits that claims 1-27 are not anticipated by the '558 reference under §102 and respectfully requests that the rejections of claims 1-27 be reconsidered and withdrawn and the application allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clyde L. Smith", written over a horizontal line.

Clyde L. Smith
Reg. No. 46,292
Thompson Coburn LLP
One US Bank Plaza
St. Louis, MO 63101
(314) 552-6338